ornia
t of California
District (
Northern
-

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Entered on Docket June 24, 2011 GLORIA L. FRANKLIN, CLERK U.S BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

JUN 23 2011

BANKRUPTCY COURT OAKLAND, CALIFORNIA

UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION

In re JOSEPH R. LOCSIN,) Case No. 11-42277WJL Chapter 7
Debtor.) RS DJB-037) Hearing: June 15, 2011 at 10:30am
Deotor.	, 165 25 55 .

DECISION RE MOTION FOR RELIEF FROM STAY

The Motion of Citibank, N.A. for relief from the automatic stay came on for hearing before the undersigned Bankruptcy Judge at the above-referenced date and time. David Boyer appeared for Citibank, N.A., the moving party. Joseph Locsin, the Debtor, also appeared.

At the conclusion of the hearing the Court indicated its willingness to grant the Motion as prayed, provided however that the Court wished to consider further the issue whether cause had been demonstrated to have the automatic stay of Section 362(a) of the Bankruptcy Code annulled as of the commencement of this case, with respect to the subject property at 1207 Devonwood, Hercules, CA 94547 (the "Property"), rather than merely terminated. The Court took the matter under submission solely to consider this issue.

Having reviewed the Motion and supporting papers, and having considered the arguments of counsel and the Debtor, and good cause appearing, the Court concludes that this is an appropriate instance in which to annul the automatic stay as of the petition date with respect to the Property. First, there is at least some evidence in the Declaration of David Boyer, filed in support of the

Doc# 26 Filed: 06/23/11 Entered: 06/24/11 15:22:12 Page 1 of 3

Motion, that Citibank, NA was unaware of the commencement of this case until mid-February 2011. Second, the current status of this matter, in which the Moving Party completed a foreclosure process, recorded a Deed Upon Trustee's Sale and commenced unlawful detainer proceedings against the Debtor's actual or constructive possession of the Property months before this case was commenced, indicate to the Court that the Debtor, and this estate, had, as of the commencement of this bankruptcy case, no lawful interest in the Property whatsoever, and retroactive annulment of the stay is appropriate. The fact that the Debtor acknowledged during the hearing on the Motion that the Debtor does not reside in the Property, but had purported to rent it out to a third party, provides further support for this conclusion. Counsel for Citibank, NA may upload an appropriate form of Order, reflecting the relief granted.

DATE: June 23,2011

TIOIN. WIEELI WIS. Ely I Ely I

Case: 11-42277 Doc# 26 Filed: 06/23/11 Entered: 06/24/11 15:22:12 Page 2 of 3

COURT SERVICE LIST Joseph R. Locsin

PO Box 5081 Hercules, CA 94547

David J. Boyer Robert J. Jackson and Associates, Inc. 4199 Campus Drive, #700 Irvine, CA 92612

Tevis Thompson P.O. Box 1110 Martinez, CA 94553

Office of the U.S. Trustee 1301 Clay St. #690N Oakland, CA 94612

Case: 11-42277 Doc# 26 Filed: 06/23/11 Entered: 06/24/11 15:22:12 Page 3 of 3